

**UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN**

YAACOV APELBAUM, a New York resident,
and XRVISION, LTD., a New York corporation,

Plaintiffs,

Case No. 2:23-cv-11718

v.

Hon. Stephen J. Murphy, III
Hon. Anthony P. Patti

STEFANIE LAMBERT, a Michigan resident, and
THE LAW OFFICE OF STEFANIE L. LAMBERT,
PLLC, a Michigan professional limited liability company
and BILL BACHENBERG, a Pennsylvania resident,

Defendants.

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**PLAINTIFFS' RESPONSE TO THE COURT'S
SHOW CAUSE ORDER OF OCTOBER 31, 2023**

On October 31, 2023, the Court entered a show cause Order instructing the Plaintiffs to respond by November 10, 2023. (Dkt. #5). November 10, 2023, being a holiday (Veteran's Day), the effective deadline became November 13, 2023. Fed. R. Civ. P. 6. In its Order, the Court required Plaintiffs to inform the Court why its case should not be dismissed for failure to prosecute. Plaintiffs' suit should not be dismissed because: Defendant Bachenberg has been served with the summons and complaint On October 2, 2023 (Dkt. #4) and is legally obligated to respond, Defendant Bachenberg's counsel requested a 30-day extension (to November 22, 2023) on Defendant's responsive pleading and Plaintiffs' Counsel agreed to this as a matter of professional

courtesy (see Exhibits 1 and 3), because as to Defendants Lambert and The Law Office of Stefanie Lambert, PLLC (collectively, “Lambert Defendants”), Plaintiffs have attempted service at no less than six (6) different locations on a total of nineteen (19) service attempts between July 23, 2023 and the present date (see Exhibit 2 – process server affidavit and Exhibit 3 – Motion for Alternate Service), and because Plaintiffs have sought relief from the Court in the form of a Motion for Alternate Service (Dkt. #6; see also Exhibit 3 – Motion). Moreover, as more fully discussed in Plaintiffs’ Motion for Alternate Service, Plaintiffs have reason to believe that the Lambert Defendants have **actual** knowledge of this suit due to their communication with their lawyer, Michael J. Smith. Accordingly, Plaintiffs have not failed to prosecute their case as to Defendant Bachenberg, nor have they spared any effort in attempting to serve the Lambert Defendants.

For reasons more fully set forth in Plaintiffs’ Motion for Alternate Service, Plaintiffs are unable to serve the Lambert Defendants in the manner provided in the applicable court rules. Plaintiffs ask the Court to grant their Motion for Alternate Service, and also to spare their claims, and case, against all Defendants.

Dated: November 13, 2023

Respectfully submitted,
BURNS LAW FIRM

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 13, 2023, a true and accurate copy of the foregoing was electronically filed with the Clerk of the Court using the Court's CM/ECF system, which will send notification to all counsel of record.

/s/ John C. Burns